FIFTY YEARS OF THE HOUSE OF LORDS

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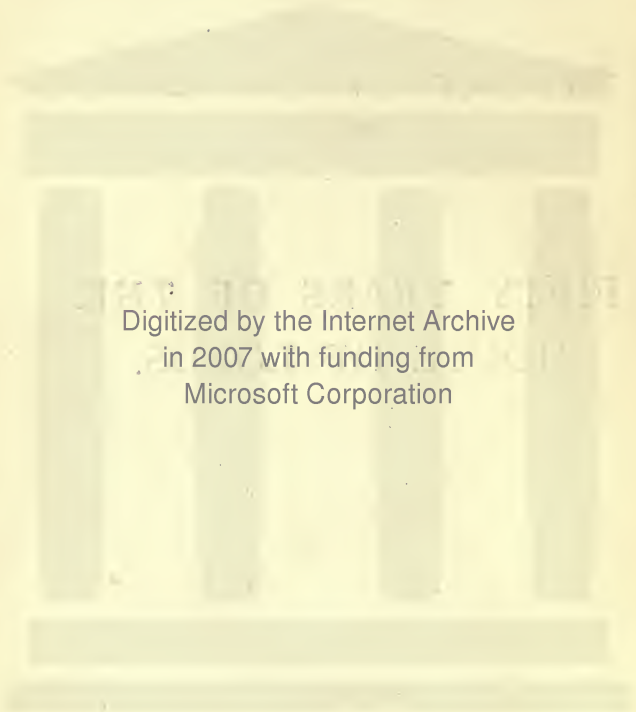

FIFTY YEARS

OF THE

HOUSE OF LORDS.

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I.

THE IRISH LAND QUESTION.

AT the present time it may not be uninstructive to pass in brief and rapid review the part which the House of Lords has played in the legislation of the last half-century. In such a review the dealings of the House of Lords with Ireland naturally occupy the first place. The retrospect is hardly calculated to justify sanguine expectations as to the wisdom of the future deliberations of the peers upon Irish questions, but it encourages a hope that the more reasonable members of the

Upper Chamber may think twice, and even thrice, before venturing to aggravate a situation the difficulties of which are largely due to their rejection or mutilation of measures by which the representatives of the people proposed in former years to remove the permanent causes of Irish discontent.

The parliamentary history of the Irish Land Question, according to Mr. R. Barry O'Brien, begins with the rejection, for such it practically was, by the House of Lords, of Mr. Brownlow's bill for the drainage of bogs and the reclamation of waste land. The bill was read a second time by the peers on June 8, 1830, and referred to a Select Committee. On the 1st of July the Select Committee reported that, although the object of the bill was excellent, there was no chance at that period of the session of passing it into law. It was accordingly allowed to lapse. It had passed its second reading on the 8th of June, and the Select Committee's report was laid on the table on the 1st of July. The

state of public business, which rendered its further progress impossible, did not prevent the peers from passing through all its stages a Coercion Bill which was not read a second time until eight days after the report of the Select Committee burked the Waste Lands Bill. The fate of Mr. Brownlow's bill was significant of much that was to follow. It was not until 1842 that an Act was passed for promoting the arterial drainage of Ireland, and it was not till 1846 that the provisions of that Act were effectively applied. In 1843 the Devon Commission was appointed; and after two years' investigation of the Irish Land question, it reported strongly in favour of legislation to secure the tenant compensation for his improvements. In 1845 Lord Stanley brought in a bill, based upon the report of the Devon Commission, giving the tenant compensation for improvements made with the consent of the landlord, or even without his consent, if they had been sanctioned by a Commissioner of Improvements, who would also be

charged with the duty of awarding fair and equitable compensation in case of eviction. The bill was read a second time on June 24, in spite of the vehement protests of the Irish landlords, and referred to a Select Committee. On July 15 Lord Stanley abandoned the bill, "in consequence of the strong feeling manifested against it by the Select Committee and the House." Thus a bill introduced by a Conservative Government, based on the recommendations of a Commission which reported that "no single measure can be better calculated to allay discontent and to promote substantial improvements throughout the country," was unable to make its way through the Lords, and for twenty-five years Irish agriculturists had to put up with a land system which the Devon Commission declared inflicted upon them "greater sufferings than the people of any other country in Europe have to sustain."

Opportunity was afforded the peers of reconsidering their position in 1853. In that year

Lord Aberdeen's Government adopted a modification of the bills of its Conservative predecessor, securing to the Irish tenant compensation for four specified classes of improvements—viz. the building of farmhouses and outbuildings, the reclamation of bog, the making of roads, and the construction of boundary fences. This bill was first brought into the House of Commons. It was before that House for many months, and after being carefully considered by a Select Committee it was sent up to the House of Lords in August. Although the bill was practically identical with that brought in by the Derby Cabinet, the Conservative peers opposed it, and only consented to read it a second time on the promise that no attempt would be made to pass it that session. In 1854 the Tenants' Compensation Bill, together with three other bills relating to the question of Irish land, was referred to a Select Committee of the peers. They disposed of it without hesitation. The Compensation Bill was condemned, and the

other bills, which did nothing to protect the tenant in the enjoyment of his property, were sent down to the House of Commons. Thus the second attempt by an English Government to do justice to the Irish tenant was foiled by the opposition of the House of Lords. "Every leading statesman," said Sir J. Napier in 1853, "has given an avowed sanction to the principle of a Tenant Compensation Bill for Ireland;" but two years later he regretfully admitted, "It is notorious that the House of Lords will pass no such measure, and that for a Government to propose it to them or pretend to support it is an imposture and a sham."

In 1860 a Land Act was passed which, although objected to most strenuously by the Irish peers as a scandalous interference with the rights of property, failed to secure to the tenant the value of his improvements. The peers did what they could to limit the meagre advantages which the bill proposed to confer upon the tenants. The bill, however, did nothing to limit

the landlord's right to confiscate the interest of his tenant, and that grievance went unredressed. But it is significant of the temper of the peers that Lord Dungannon's proposal to refer it to a Select Committee, avowedly because he deprecated any legislative interference whatever between landlord and tenant, only escaped defeat by the narrow majority of four. In 1866 the Liberals, and in 1867 the Conservative Government, attempted, but in vain, to secure for the Irish tenants that protection for their property which the Devon Commission had demanded for them in 1845. Twenty-five years had passed before Mr. Gladstone, in 1870, undertook to carry out the spirit of the recommendation of that Commission.

In 1870 the necessity for some legislation was admitted by the peers, for they read the Land Bill without a division. They then proceeded to amend it by making several alterations, most of which Mr. Gladstone accepted rather than risk the passage of the bill, although he did not

disguise his opinion that for the most part they were amendments only in name, and were calculated to mar rather than to mend the measure under discussion. The experience of eleven years has demonstrated only too abundantly, that the whole tendency of the Lords' amendments was in the wrong direction. Among the amendments which he accepted as a compromise was the reduction of notice from twelve months to six—a change the principle of which the Legislature subsequently condemned at the instance of Lord Beaconsfield's Government. Another remarkable alteration in the bill of 1870, effected by the Lords, was that which expunged the clause permitting tenants to let allotments to labourers without forfeiting all claim to compensation for disturbance. It was the only clause in the bill which did anything for the labourers; but it was struck out by the Lords. Ministers, to save the bill from defeat, reluctantly acquiesced in the omission. The

effect of the alteration was to punish by the forfeiture of all his interest in his holding the farmer who ventured to improve the condition of his labourers by allowing them allotments. This year those who supported the peers in their mutilation of the bill of 1870 clamoured loudly in favour of something being done for the labourers. In reply to their demands Mr. Forster introduced, with additions, the omitted clause of the Land Bill of 1870. The Lords attempted, but fortunately in vain, to reduce the scale of compensation for disturbance in the case of the smaller holdings, and to make a lease of twenty-one instead of one of thirty-one years a bar to claims for compensation. Both these amendments were struck out by the Commons. A conflict took place over the permissive registration of improvements in which the Lords succeeded in carrying their point. They also succeeded in interpolating provisoes against the breaking up of grazing lands. They restricted the number of cases in which compensation is

due to the tenant on assignment; they increased the number of cases in which a landlord could evict without compensation; and they refused all compensation in the case of cottage allotments not exceeding one quarter of an acre. The clause forbidding landlords to make any distress for rent due out of any holding held under a tenancy created after the passing of this Act unless such right of distress was expressly given in writing in the terms of the agreement was struck out.

Mr. Gladstone made a more determined stand against another of the Lords' amendments. The bill when sent up to the Lords contained the proviso that, although the claim for compensation for disturbance should be voided when the tenants were ejected for non-payment of rent, the Court should be empowered on special grounds to award compensation even in those cases. The Lords struck this proviso out. Mr. Gladstone declared that the stipulation was necessary, and the House of Commons reinstated

it by a vote of 248 to 171. The Duke of Richmond and Lord Cairns pointed out that the effect of the clause would be that the Court would be empowered to decide against allowing a landlord to eject a tenant without compensation for disturbance if the latter could plead the failure of crops as a special ground for his inability to fulfil his obligations. Lord Granville and Lord O'Hagan in vain urged the importance of giving the Court power to soften the oppression under which the peasant might be placed, but they appealed in vain. The Lords decided to insist upon the amendment, and the bill was sent back to the Commons. Mr. Gladstone said the Government attached great value to the clause, but as the bill might be lost by insisting on it he yielded. One result of the clause as it stood would have been that the Court would have been entitled to make an allowance to the tenant where in the opinion of the chairman the rent had been exorbitant—a curious hint as to the germ of the tribunal fixing a fair rent. He

was reluctantly compelled to sacrifice the clause to avert a rupture between the two Houses. The House of Commons gave way, and the bill became law without the clause to which the House of Lords had objected.

The consequences of this acceptance of the Lords' amendment were not fully revealed till the session of 1880. A failure of the harvest for three years in succession created one of the special grounds contemplated by the vetoed clause for interposing a judicial check upon the exercise of the landlord's right to evict the tenant without compensation. To remedy the injustice of allowing the landlord to use a famine as a means of effecting a clearance, the Government made an attempt to restore the clause abandoned in 1870 by the Compensation for Disturbance Bill of 1880. The bill passed the Commons, but in the Lords, although the peers were warned that its rejection would bring Ireland within a measurable distance of civil war, it was rejected by an enormous majority.

To that vote can be traced the excessive exasperation of the tenants against their landlords which enabled Mr. Parnell to make the Land League supreme in Ireland and to intensify those feelings of national animosity which it has been the labour of generations of statesmen to efface.

II.

THE GOVERNMENT OF IRELAND.

THE attitude of the House of Lords in relation to the administration of Ireland has been in strict keeping with the opposition which it has uniformly offered to all recognition of the claims of the Irish tenants. It is significant that the first popular movement for the abolition or reform of the House of Lords since the Reform Act was headed by O'Connell, and based chiefly upon the impossibility of securing from the Second Chamber any measure of justice for Ireland. O'Connell declared in 1835, in his place in Parliament, that in dealing with Ireland the Lords "treated everything of conciliation or justice with contumely and contempt," and his language, although strong, was borne out by the facts. A retrospect of the contribution which

the Peers have made to the government of Ireland brings out the fact that the function of the Second Chamber for half a century has been to emphasize every demand for repression, and to mutilate, postpone, or reject every measure extending to the Irish the rights and privileges enjoyed by their fellow-subjects in England and Scotland. No small portion of the difficulties of Irish government has arisen from the inability of the English people to secure the acceptance of just laws for Ireland by the House of Lords until long after the opportunity had passed when concession might have been efficacious in removing discontent.

"Why are the Irish discontented?" once asked O'Connell in the House of Commons. "Because," he replied, "for 700 years England has governed them by a faction and for a faction." To secure the perpetuity of that mode of government has been a constant preoccupation of the peers. They have at least secured a perpetuity of discontent. It would far exceed the limits of

an article to describe in detail the methods by which this policy was executed.

The way in which the House of Lords dealt with the subject of the Irish franchise affords a good illustration of their general policy. Mr. Forster the other day assured a deputation of Irish labourers that when the county householders of Great Britain were admitted within the pale of the Constitution the same privilege will be conferred upon the householders of Ireland. The justice of such an arrangement is obvious, but the principle has been constantly disregarded for the last fifty years. When Roman Catholic Emancipation was wrung from the House of Lords in 1829, the concession was only made on condition that the forty-shilling freeholders should be disfranchised. Without that stipulation even the dread of civil war would not have overcome the objection of the peers to admit their Catholic fellow-subjects to the privileges of citizenship. The spirit of jealous antipathy to every extension of the franchise in

Ireland has been one of the distinguishing characteristics of the Second Chamber. The Government of Earl Grey, after passing the Reform Act of 1832, lowered the suffrage in Ireland; but, so far from treating Irishmen as Englishmen, the result of the Irish Reform Act was that only five per cent. of the adult males in Ireland in 1839 possessed the franchise. In England the percentage of voters was nineteen, or nearly four times as great as in Ireland. In 1841, and again in 1848, English Ministers admitted the scandal of the excessive limitation of the Irish electorate, but nothing was done. The bills were dropped. With the fate of the Corporations' Bills fresh before them, Ministers naturally did not care to push forward measures certain to be rejected in another place. It was the experience of many years which led O'Connell to tell the Commons in 1839, "Though a majority in this House may be disposed to do us something like justice, all your efforts will be frustrated by the other

branch of the Legislature." In 1835 the House of Commons sent up to the Lords a measure assimilating the Irish registration system to that of England. The indirect effect of this was to increase to some small extent the numbers of voters in Irish constituencies, by relaxing the reactionary stipulations of 1829 and 1832. The Peers threw it out by a majority of exactly three to one, 81 voting against it and only 27 in its favour. Forty-five years later another Irish Registration Bill, intended to secure the same object as that of 1835—the assimilation of the English and Irish system—was thrown out by a vote of 42 to 30. The influence of the Peers has always been thrown in favour of restriction. This tendency appears in small matters as well as great. In 1837, on the eve of the general election, a bill was sent up to them by the Commons to enable returning officers in large towns to increase the number of polling-places, for in Ireland the limited number of polling-places, coupled with the absurd oaths and form-

alities insisted upon by the law, involved the practical disfranchisement of no inconsiderable proportion of the very limited number of electors. It was rejected by the Peers by a majority of 74 to 36.

The condition of the Irish electoral system, which the Lords repeatedly refused to permit the Commons to reform, may be inferred from the following extract from one of Mr. Bright's speeches in the session of 1848:—"In the whole of Ireland there were not 60,000 electors—probably not 40,000—among a population of 8,000,000. In the city of Dublin there were 21,000 names on the electoral roll, and perhaps not more than 7000 of them entitled to vote. The registration took place once in eight years. The elector must pay at least six rates before he could register his votes, some said ten; and he had been informed on good authority there were no less than fifteen of one sort or another." Year after year the House of Commons admitted the necessity of a change; but it was not till

1850 that the franchise was reduced and the registration reformed. The bill sent up from the House of Commons proposed to fix the franchise at an 8*l.* ratal qualification. At that time the percentage of electors to adult males, which in England was 28, in Wales 32, and in Scotland 25, was in Ireland only 2. The 8*l.* rating franchise would have added 264,000 electors to the register. The Lords struck it out, and substituted for it a 15*l.* rating, reducing the numbers to be enfranchised to 120,000. To save the bill the Commons consented to fix the limit at 12*l.* which enfranchised 172,072. The compromise excluded 90,000 Irishmen from the privileges of citizenship. A vigorous attempt was made to restore the 15*l.* rating by the Lords. Sixty-two voted in favour of Lord Stanley's proposition to that effect, and fifty-six against it. Proxies, however, turned the scale, and the 12*l.* compromise was accepted by 126 to 115. The clause establishing a self-acting method of registration was struck out by the Lords, restored

by the Commons, and reluctantly assented to by the Upper House.

Fifty years ago O'Connell and the Irish popular party demanded the English franchise. In 1844 even Sir Robert Peel declared his conviction that "Great Britain and Ireland should be placed upon the same footing and upon an equality as to civil and political liberties." But as the net result of half a century's struggle for representation the Irish borough franchise is fixed at 4*l.* rating, instead of household suffrage. Of the Irish borough population only one in eighteen has a vote. In England the proportion is one in seven. Even in English counties it is one in fourteen. The reduction of the Irish borough franchise was one of the first measures promised by the present Government. That promise has not yet been fulfilled.

Municipal reform in Ireland was not less strenuously resisted by the Peers than the reduction of the franchise. In 1835 the scandal occasioned by the corrupt, unrepresentative

character of the Irish corporations led the House of Commons to demand that the principle adopted in England and Scotland should be extended to Ireland. The Lords had passed a bill reforming the government of the Scotch burghs with only a single protest in 1833: in 1835 they had consented to reform the whole of the English corporations; but when, in the latter year, they were asked to mete out to Ireland the same measure that they meted out to England and Scotland they refused. The Irish Municipal Reform Bill passed through all its stages in the Commons. It failed to make its way through the Lords. In 1836 the Commons again passed the bill through all its stages, only to have it mutilated out of all recognition by the Lords. 106 out of its 140 clauses were struck out, and the bill was abandoned. In 1837, for a third time, the Commons sent the bill up to the Lords. The Lords adjourned its consideration from May to June, and then again from June to July, when the bill dropped. The Commons in

1838 sent the bill up a fourth time, hoping that in exchange for the abandonment of the Appropriation Clause the peers would pass the Municipal bill. They were disappointed. The Lords raised the franchise from 5*l.* to 10*l.*, and restored the rights of the freemen, alterations that led to the abandonment of the bill. In 1839 a fifth attempt to secure municipal government in Ireland met with the same fate, although the Government offered to accept an eight-pound franchise. "Give us the English municipal franchise!" was the cry of O'Connell; but not even the House of Commons dared to place all Irish householders in towns on the burgess roll. The House of Lords in 1840 insisted upon fixing the Irish municipal franchise as high as 10*l.*, and, wearied out by six years' fruitless attempt to secure English privileges for Irish municipalities, the House of Commons gave way, and nine-tenths of Irish borough householders outside Dublin remain to this day without that voice in the municipal government of their own

town which they enjoy as a matter of course when they migrate to an English or Scotch borough.

The Lord-Lieutenancy, the abolition of which was recommended by Lord Althorp and Lord Monteagle, by Sir Robert Peel and Earl Russell, by Mr. Gladstone and Mr. Bright, still exists, owing to the intervention of the House of Lords. In 1850 the bill for its abolition was carried through the House of Commons by 295 to 70 votes, but it was extinguished in the House of Lords, owing to the opposition of the Duke of Wellington. Since then Ireland has continued to enjoy "a Brummagem Court, a mock Sovereign, and a pinchbeck Executive."

The influence of the Lords has been constantly exerted in favour of maintaining the power of the small faction which is represented by the Irish representative peers. The long struggle over Corporation Reform was prompted by a desire to maintain power in the hands of the small Protestant minority. The same wish

prompted them to resent every attempt to introduce English principles into Irish administration. They threw out the Dublin Police Bill in 1835, although by so doing they left the capital of Ireland a prey to lawlessness, because the corrupt clique called the Corporation had not been consulted. The same year they rejected, by 51 votes to 39, the bill legalizing the transfer which had long taken place in fact, of the appointment of the inspectors of the constabulary from the magistrates to the Crown. A curious vote of the House in 1839 rejected a bill imposing a fine of 5*l.* on a man in whose possession the flesh or fleece of a sheep was found without his being able to explain how he came by it. Their lordships decided that such a criminal in Ireland must continue liable to be hanged or transported. Of late they have not interfered so often as they used to do, but only last session they rejected the bill sent up to them by the Commons for reducing the law costs of Irish tenants by assimilating the Irish to the English law.

III.

THE IRISH ROMAN CATHOLICS.

THE Irish question is peculiarly a Catholic question, for eight Irishmen out of ten belong to the Roman Church. Irish discontent was the natural result of Protestant intolerance, but the ascendency of an alien sect was jealously maintained by the Lords. When Lord Cornwallis reported to Mr. Pitt that he could carry the Union, but not the participation of the Roman Catholics in all the privileges of the Protestants of Ireland, Mr. Canning exclaimed: "Then if I were you, I would refuse both; I would not have one without the other." Mr. Pitt rebuked Mr. Canning for his intemperance; but Earl Russell, nearly fifty years later, after long experience of the results of taking one without the other, declared from his place in Parliament, "I

own that in reflecting upon what then passed I very much doubt whether the youthful judgment of Mr. Canning was not wiser than the mature decision of Mr. Pitt."

The House of Lords did its best or its worst to defeat the recognition of the rights of the Roman Catholics. One memorable instance, which lies outside the half-century selected for review, was typical of all that followed. Catholic Emancipation, regarded by Mr. Pitt as one of the essential conditions of the Union, was postponed until concession lost all its virtue. The responsibility for this, no doubt, must be shared with the House of Commons, which in those days was but little better than the creature of the aristocracy. But in 1825 even the unreformed House of Commons could no longer resist the claim of the Catholics to be admitted within the pale of citizenship, and the Catholic Relief Bill was carried by a majority of twenty-one. "Even in 1825," said Lord Macaulay, speaking nineteen years after, "it was not too late. The machinery

of agitation was not yet fully organized; the Government was under no strong pressure, and therefore concession might still have been received with thankfulness. That opportunity was suffered to escape; and it never returned." How was it suffered to escape? By the action of the House of Lords. They rejected the Relief Bill by a majority of forty-eight. Three years later the House of Commons again sent up the bill, which admitted eight-tenths of the population of Ireland within the pale of the Constitution. Once more the House of Lords rejected the bill. In 1829 the concession refused to justice was made "reluctantly, ungraciously, under duress, from the mere dread of civil war." "The Irishman," said Macaulay, "was taught that from England nothing is to be got by reason, by entreaty, by patient endurance, but everything by intimidation. That tardy repentance deserved no gratitude and obtained none." The House of Lords, by its repeated rejection of the Relief Bill, and not less by its

sudden capitulation, had led the Irish to believe that "by agitation alone could any grievance be removed." The lesson has not been forgotten even yet.

After the Emancipation Act was passed it was some time before its spirit was recognized in the administration. For years after it received the Royal assent the Roman Catholics were virtually excluded from the government of Ireland. To this day the justices of peace in Ireland are selected chiefly from the minority of the population, but in 1833 there was not in all Ireland a single Catholic judge, grand juror, inspector, or sub-inspector of police. There was only one Catholic sheriff. The overwhelming majority of the unpaid magistrates were Protestants. The towns were ruled by Protestant cliques, corrupt and bigoted. "The favourable or the hostile mind of the ruling power," said Burke, "is of far more importance to mankind for good or evil than the black letter of any statute." The mind of the ruling power was

hostile to the Irish Catholics, and every attempt to give effect to the spirit of the Emancipation Act was opposed by the House of Lords. In 1839 this opposition assumed the shape of an informal vote of censure, which led to the counter-motion in the Commons, in support of which Earl Russell made a speech on the Government of Ireland which might be read with advantage by many of our statesmen to-day, so plainly did the old Whig lay down the principle that "nothing firm or stable was possible in Ireland unless the Government secured the good-will and confidence of the Irish people." But the Lords did not confine themselves to censuring the Executive for attempting to govern Ireland "according to the wishes of the people of Ireland." "Every Bill," said Macaulay in 1844, "framed by the advisers of the Crown for the benefit of Ireland was either rejected or mutilated." That Macaulay did not exaggerate may be seen by a reference to Hansard. The conduct of the Lords may be

illustrated by their dealings with the Church Establishment. In 1833 the Government of the day passed the Church Temporalities Act; but, instead of appropriating the surplus revenues of the alien establishment to the furtherance of purposes approved by the majority of the nation, the Appropriation Clause was abandoned from fear of the Lords. The Tithe War of fifty years ago had brought Ireland to the verge of anarchy. Coercion of the most rigorous type had been tried and found utterly wanting. In 1834 the Commons, by a majority of 360 to 99, passed a Tithe Abatement Bill. O'Connell declared on its third reading that the bill "would form a new epoch in the history of the Government of Ireland. This was the first great step towards a conciliatory system in Ireland. He hoped no attempt would be made to blast the first step made towards the pacification of his country." Six days later the bill was summarily rejected by the Lords, by a majority of 189 to 122. The next year the Tithe Bill was again sent

up to the Lords. They struck out the clause appropriating a portion of the ecclesiastical revenues to national purposes, thereby securing the abandonment of the bill. In 1836 the Commons a third time sent up the bill to the Lords, and the Peers again defeated it by the elimination of the Appropriation Clause. In 1837 the Tithe Bill was read a second time by the Commons by a majority of 229 to 14, but the death of the king saved the Lords the trouble of rejecting it. In 1838 the fifth bill dealing with the question of Irish tithes was introduced into the House of Commons. To secure its acceptance by the House of Lords, the Government assented to the elimination of the Appropriation Clause. The alien Church was to keep all its endowments; not one penny was to be devoted to the education of the people. The Lords triumphed, and the Church of Ireland was saved—for a time. The sequel of the victory was not seen for thirty years. In 1868 the House of Lords rejected

Mr. Gladstone's resolutions demanding the disestablishment and disendowment of the Irish Church. It was their last effort. In the following year the second reading of the Disestablishment Bill was carried in the Upper Chamber by 179 votes to 146, and the Establishment which the peers had refused to adapt to the wants of the nation in 1838 was swept away altogether with their assent in 1869.

How far the Catholics were from participating in all the privileges of the Protestants may be inferred from the fact that the penal laws remained unrepealed till 1844. The action of the Lords in that year illustrates the difficulty —the permanent difficulty—of doing justice to Ireland through such an instrument as the House of Peers. The Penal Laws Repeal Bill of 1844, after being passed by the Commons, was sent up to the Lords in July. The measure repealed the whole of the Acts which made it penal for a Roman Catholic to attend mass and high treason to recognize the spiritual supremacy

of the Pope, which forbade Catholics to bear arms or to own a horse valued at more than 5*l.*, which punished Catholics who taught children to spell without a licence from a Protestant bishop, and sentenced to transportation for life those who administered the vows of any monastic Order to a subject of the Queen, and which fined Catholics who did not attend Protestant service, and forbade the use of sacerdotal vestments outside the Catholic chapels. When it came before the House of Lords it was so vehemently opposed by the Bishop of London that the Lord Chancellor was compelled to remodel the measure by leaving out all "the objectionable clauses." Even this did not remove the objections of the Bishop ; but the expurgated bill was allowed to pass into law. The clauses which were thus sacrificed to propitiate the peers left unrepealed the old Acts forbidding Catholics to teach without a licence from a Bishop of the Establishment, to wear sacerdotal vestments outside church, and to educate their youth as

Jesuits, as well as those prohibiting members of any monastic Order setting foot within the Queen's dominions without a licence from the Secretary of State. In 1845 an attempt was made to complete the work of repeal, but the same House of Commons which had sent up the comprehensive measure the previous year refused, by a majority of 89 to 47, to once more send up "the objectionable clauses" to the House of Lords.

These laws, it may be said, were dead letters, although they might be put in motion by any informer; but the less vitality they possessed the less excuse had the House of Lords for perpetuating in the Statute-book these mouldering monuments of the bigotry of the sixteenth century. Even that apology, however, fails in the case of the Marriage Laws. In 1835 the Commons proposed to repeal the penal law which permitted any scoundrel married by a Catholic priest to repudiate his wife when he pleased, by proving that he had attended a Pro-

testant place of worship within twelve months of his marriage. This prostitution of the marriage service for purposes of seduction in the name of Protestantism was maintained by the Lords by a majority of 42 to 16. Even the House of Lords, however, could not long resist the demand for a removal of this odious "privilege," and after a time they annulled their vote by passing a bill similar to that which they rejected in 1835. The spirit which prompted the vote in favour of the penal laws long lingered in the Upper House. Thirty years after the vote on the Marriage Bill, Lord Derby secured the rejection, by a majority of 84 to 63, of the bill relieving Roman Catholics from the oath of abjuration imposed on their representatives in Parliament. It was only an insult, but even an insult could not be surrendered without a pang. The same spirit of intolerance was even more painfully displayed in matters concerning the administration of justice. In 1839 the Lords, after long and angry debate, solemnly passed a

vote of censure on an Irish judge, Sir M. O'Loghlen, because he had given directions that no juror should be set aside merely on account of his political and religious opinions.

To this long list of samples—and only samples, for it does not pretend to be an exhaustive catalogue of the instances in which the House of Lords has thwarted the will of the English people in their efforts to do justice to Ireland—we add two quotations. The first is Lord Russell's record of the pledges given by England and Ireland when the Union was concluded: "The promises which were made at the time of the Union were that Ireland should be placed upon an equality with England, and that she should be governed upon the same principles and should enjoy the same rights and privileges." These pledges and these promises to this hour have never been fulfilled. And why? Mr. Roebuck shall supply the answer. Addressing the ministerial majority which represented the English people in 1837, he said: "You have

tried on your knees to obtain justice for Ireland . . . . and what has been your reward? Contempt and scorn. Your enemies have trampled upon your measures; they have contemptuously delayed, changed, or rejected them as the humour of their insolence suggested. . . . . What ought you to have done? What you did not dare to do. You should have boldly told the people of both countries that justice could not be gained by either while an irresponsible body of hereditary legislators could at will dispose of the fortunes and the happiness of the people. We have laboured in order to relieve the miseries of Ireland, and if possible to heal the wounds inflicted by many centuries of misrule. We have not advanced one single step. Every year sees our labours rendered abortive by the headstrong proceedings of the House of Lords. If we wish for peace with Ireland we must change this faulty system."

IV.

PARLIAMENTARY REFORM.

THE House of Lords began the fifty years' period which is now being passed in review by rejecting the Reform Bill of 1831. The measure was admittedly one which struck a heavy but unfortunately not a final blow at the powers and prerogatives of the peers. The House of Lords, therefore, only exercised a natural instinct in rejecting it on October 7, 1831, by a majority of 199 to 158. No vote could have been more legitimate or more justifiable if it is accepted that the function of the House of Lords is to stem the rising tide of democracy and to preserve intact the aristocratic institutions of the country. It was the *reductio ad absurdum* of the constitutional paradox. The House of Lords, whose

existence is defended by asserting the necessity for an effective check upon a craving for revolutionary change, and which is furnished for that purpose with a decisive veto upon every measure which in its mature and hereditary wisdom it regards as unwise, was fifty years ago confronted by a popular demand for a revolutionary change which it regarded as not merely unwise but dangerous in the extreme. It showed the courage of its convictions; it discharged its function; it rejected the bill. The result was a conclusive demonstration of the impossibility of working constitutional machinery on constitutional principles if the House of Lords were to exercise the powers with which it is vested by the law. After a winter during which the country approached the verge of an insurrection, after Bristol had been convulsed by riots which were only quelled by force of arms, after Nottingham Castle had been burned, and after the men of Birmingham had got ready to march on London, the Lords gave way not to reason but

to fear, and passed in deference to revolutionary menaces a measure which, little more than six months before, they had rejected by a majority of 41, and which they still believed to be fraught with mischief to the Crown and Constitution of England. They surrendered not to argument but to force, and afforded the nation the first great lesson that from the Lords, while nothing can be obtained by justice, everything can be wrung by violence. The voice of the representatives of the people is disregarded in the Gilded Chamber until it is re-echoed by the angry clamour of their constituents. The Lords can veto the measures of the Commons, but they are paralyzed by the menaces of the people. Their existence is a premium upon agitation, for to induce them to concede a reform it is necessary to threaten them with a revolution. The winter of 1831-2 inaugurated the reign of the English democracy by teaching them to despise a second Chamber so foolish as to reject one year as pernicious a measure which it was so

weak as to enroll in the Statute book the next.

The Lords did not seriously mutilate the Reform Bill of 1832. Their fear was too great. They contrived, however, to save the freemen from political extinction. This change was reluctantly assented to by the Commons, but in other respects the bill remained unaltered. The new constituencies, thus inoculated with corruption by the express action of the Lords, have never rid themselves of the taint. The evidence given before the Electoral Commissions last year prove only too clearly how deep the canker has eaten into the system of popular representation. For that, as for many other similar blessings, we still "thank God for the House of Lords." Unable to prevent the people from electing their own representatives, the patrons of Gatton and Old Sarum avenged their defeat by vitiating at its source the fountain of popular power. It was not merely by insisting that the freemen should remain on the register

that the House of Lords provided for the corruption of the new constituencies. When the reformed House of Commons was confronted with the evidence of the corrupt practices which prevailed at the first general election after the Reform Act, its efforts to extirpate corruption were frustrated by the deliberate and persistent refusal of the Lords to assent to the remedial measures sent up to them by the Commons. The most glaring cases of corruption reported after that general election were those of Warwick, Stafford, Hertford, and Carrickfergus. The House of Commons sent up bills to the House of Lords disfranchising the corrupt boroughs. The House of Lords rejected them. The House of Commons postponed the issue of the new writs ; and even of this complaints were raised in the House of Lords that they were exceeding their rights. Although gross bribery was proved to have prevailed in the peccant boroughs, it was maintained that the House of Commons ought to issue the writs, in order to make its numbers

complete. But that was not all. In the fervour of its reforming zeal, the House of Commons sent up to the House of Lords a drastic Corrupt Practices Bill—not so drastic, it is true, as Sir Henry James's Draconian bill, but a measure which, if passed in its entirety, would have done much to check corruption. The House of Lords consented to read it a second time on condition that it was referred to a Select Committee. By this Select Committee it was completely remodelled, so as to make it almost a new measure, said Lord John Russell. The provisions calculated to make it effective were struck out, and in their stead clauses were inserted giving the peers a right to appoint five of their number to sit with seven members of the House of Commons to try bribery cases, under the presidency of a judge. The claim of the peers to interfere with the trial of election petitions directed against the seats of members of the House of Commons was naturally resented by the latter Assembly, and the consideration of the

Lords' amendments being deferred for six months, the bill lapsed. Two years later the House of Commons made another attempt to deal with one of the offending boroughs. Stafford was notoriously corrupt. In ten years it was proved that five elections had led to an expenditure of not less than 36,582*l.* over a constituency of 1270, of whom only 1100 came to the poll. A corrupt expenditure averaging 3*l.* per voter per annum had been kept up for ten years. Direct bribery and wholesale treating prevailed to a frightful extent, and the House of Commons determined to make an example of the borough. But they reckoned without the peers. Lord Ashburton protested against the idea that a borough should be disfranchised for treating—"ordinary treating"—and the bill was thrown out by 55 votes to 4. Twelve years later, the House of Commons made another attempt to get rid of the corruption which disgraced so many constituencies. It sent up, in 1848, a bill to the House of Lords, which ordered a

Special Commission to investigate corrupt practices in constituencies where a Committee of the House of Commons reported they prevailed. As it did not reach the Lords till the 24th of August, their lordships decided it was too late to consider it, although Parliament did not rise till September, and thus another attempt to deal with the evil fell through in the Upper Chamber. Next year the attempt was renewed. A Bribery Bill was passed through all its stages and sent up to the House of Lords in time to be read a first time on July 16. A fortnight later the peers threw it out on the motion for second reading, chiefly on account of the "monstrous" proposition that when a man had been declared by the unanimous verdict of an Election Committee to have been guilty of bribery, he should be struck off the electoral list for the rest of his life, and another attempt on the part of the Commons to prevent corruption was thwarted in the House of Lords.

It is unnecessary to pursue this theme. Enough

has been said to show that if corruption has eaten into our democratic institutions, the aristocratic branch of the Legislature is largely responsible for the failure of all the remedies devised for its extirpation. The rejection of Bribery Bills was only one method of manifesting their antipathy to cheap and pure elections. The proposal to limit the polls in counties to one day instead of two had to undergo in 1852 the ordeal of rejection by the Lords before it was passed into law. Measures adding to the number of electors were almost always rejected. In 1837 a bill enabling duly qualified electors to vote if they had paid up their rates to within six months of voting, instead of up to the time of voting, and another permitting electors to vote, although they had changed their residence between one registration and the other, were both rejected on the ground that they added to the numbers on the register. In 1838 the Lords proposed, by adding a new clause to a bill sent up from below, to deprive those of the franchise

who exercised it as trustees, but the Commons preferred to lose their bill altogether rather than accept such an amendment. The tendency has always been in the same direction, and every recognition of the right to vote has been gained after successive prolonged struggles against the opposition of the House of Lords.

In 1867 the second Reform Act was passed without being first rejected by the Peers. The cause of this was the fact that a Reform Bill had already fallen through in the House of Commons, and the second bill was introduced by a Conservative Government. But even the handiwork of Lord Derby and Mr. Disraeli could not escape the reactionary meddling of the peers. They doubled the copyhold qualification of voters in counties, stipulated that elections should be conducted by voting-papers, and created the three-cornered constituencies. The two former "amendments" were struck out in the Commons, but the last was permitted to remain.

The last illustration of the attitude of the House of Lords to questions of parliamentary reform to which we need refer is supplied by their treatment of the Ballot Act. Although Mr. Berkeley succeeded in carrying his resolution in favour of the ballot nearly thirty years before, the subject did not come before the peers until 1871. Smarting under the sense of defeat on the abolition of purchase in the army, the Lords threw out the Ballot Bill by 97 to 48. In 1872, although no additional reason had been advanced in its favour beyond the fact that there had been an autumnal agitation against the House of Lords, they read the bill a second time by 88 votes to 58. In Committee, however, they rendered the bill useless by making secret voting optional by 83 to 67. The opposition of the Commons led them to reconsider their position and annul their vote. The bill ultimately became law without any further mutilation beyond an infringement of the secrecy of the ballot in the case of illiterate voters and the limitation of the

bill to a period of seven years. The same animus against secret voting showed itself the same year in the rejection outright of the proposal to elect school boards by ballot. The majority, however, was small, and the vote a few years afterwards was annulled by the Lords at the demand of a Conservative Government.

V.

RELIGIOUS EQUALITY.

THE attitude assumed by the peers in relation to religious liberty has already been foreshadowed in the sketch of their dealings with the Catholic question. They have been the persistent, steady, and unwavering opponents of every recognition of the claims of Nonconformists to an equality of rights and privileges with Churchmen. On one occasion, and on one occasion only, have they shown themselves more Liberal than the House of Commons. In 1877 they surprised every one by voting in favour of destroying the monopoly of the graveyard, of which they had previously been the stoutest champions. It was but a momentary aberration. In 1880, when the Burials Bill came

before them, they showed all their old anxiety to minimize a concession which could no longer be withheld ; but that even for a single session the Upper Chamber should upon a question of religious equality have been in advance of the House of Commons is an unexampled phenomenon, deserving if only from its rarity to be mentioned at the beginning of any retrospect of the action of the peers on this subject.

A debate which took place in 1834 upon a proposal to repeal the law which then disgraced the statute-book, forbidding the holding of religious meetings attended by more than twenty persons in private houses, illustrates the position from which the peers approached such discussions. The proposal to allow unlicensed private persons, without taking any oath or subscribing to any declaration, to hold service in their own houses scandalized their lordships, and the bill was rejected without a division. The Bishop of Exeter laid it down to his own satisfaction, and

apparently to that of his fellow-senators, that the bill was opposed to the Twenty-third Article of the Church of England, and as the whole Thirty-nine were "part of the unalterable Constitution of the realm," the bill was manifestly unconstitutional and merited the immediate rejection which it received. What chance was there that an assembly which held such views could do justice to Nonconformists? They had passed the Test and Corporation Acts with reluctance before the Reform Act, but the bills which were the natural and legitimate corollaries of that measure they rejected year after year without the least compunction. The same year that the Bishop of Exeter had asserted that the Thirty-nine Articles were an unalterable part of the British Constitution the Duke of Wellington laid down the law that the King's Coronation Oath compelled him to reject every proposal to allow Nonconformists to be educated at Oxford and Cambridge. The Duke's reasoning was somewhat peculiar. By the Royal

Coronation Oath the King was "bound to see that in the universities the true doctrines of the Gospel, the doctrines of the Church of England, were maintained and taught, and nothing else." To admit a Dissenter would be to give him a chance of gaining a seat in the Governing bodies of the universities, which would imperil their exclusively Church of England character, and so "overturn every principle contained in the King's Coronation Oath." When the leader of the majority in the Lords held such a doctrine as this, the fate of the bills sent up by the Commons in favour of freeing the national institutions from sectarianism might be foreseen. The first bill opening the universities to Dissenters was sent up to the Lords shortly after the Reform Act by a majority of 164 to 75. It was rejected by the peers by a majority of 187 to 85. Twenty years later the peers reluctantly accepted a bill enabling Dissenters to take degrees at Oxford and study at their own private halls, but the concession was carefully

limited by amendments shutting out Nonconformists from all offices hitherto reserved for Churchmen qualified by a university degree.

The struggle for the opening of the national universities freely to all the youth of the nation did not begin until many years later. In 1864 the House of Commons declared by a small majority that the sectarian monopoly of the national seats of learning should cease. In 1865 they repeated this declaration, but in neither case was the bill sent up to the peers. In 1866 the Commons carried the second reading of the Test Abolition Bill by a majority of 114, but the lack of time proved fatal to the further progress of the measure. In 1867, however, after the Bill had been read a second time without a division in the House of Commons, it came on for second reading in the House of Lords on July 25. The Bishop of Peterborough reminded the peers of the duties they owed to "God and the Church," and the bill was flung out by a majority of 74 to 46. In 1869 the bill was sent

up again, only to be rejected by a majority of two to one. In 1870 their lordships, being again confronted by the demand for justice, shelved the matter for another year by referring the question to a Select Committee. In 1871 the long fight came to a close by the complete surrender by the Lords of every position which they had previously undertaken to defend. True, however, to their hereditary instinct, they added amendments exempting the heads of colleges from the provisions of the Bill, imposing a new test upon tutors, and preventing governing bodies of colleges from making liberal alterations in their statutes. The Commons summarily disagreed with these amendments, and the bill went back to the Lords. Lord Salisbury proposed they should insist on his new test for tutors, but the peers rejected his proposal by 128 votes to 89, and the struggle terminated at last in the complete triumph of the popular party. But even in the hour of victory it was impossible to forget that the Lords had been

able to retard for five years a reform the Commons had sanctioned as far back as 1864. As with university tests so with Church rates. In 1858, after many years' discussion, the House of Commons sent up the bill abolishing Church rates to the House of Lords by a majority of more than sixty. The bill was hotly debated, and, after a lengthened discussion, it was rejected by the peers by the decisive majority of 187 votes to 36. In 1860 the bill was again sent up, this time by a smaller majority. The second reading was carried by a majority of 29, but on the third reading it dwindled to 9. The Lords threw out the bill by 128 votes against 31. In 1867 a new Church Rates Abolition Bill was read a second time by a majority of 76. On the 8th of August the Lords threw out the bill by a majority of 82 to 24. In 1869, after the bill had been referred to a Select Committee, the Lords gave way, and the measure, the success of which they had declared would be fatal to the Church, was placed on the Statute-book with their con-

sent, but without any of the fatal consequences which they had predicted.

The struggle for Jewish emancipation was even more protracted than those waged over the opening of the universities or the abolition of Church rates. Even the little bill admitting Jews to Corporations was rejected in 1841 by a House substantially identical with that which accepted it without a division in 1845. The history of the Jewish Disabilities Relief Bill can best be told by placing the majorities in favour of the bill in the Commons side by side with those against it in the Lords. The following is the record :—

Date.	Commons—For.	Lords—Against.
1833	137	50
1834	36	92
1836	17	withdrawn
1848	97	35
1851	25	36
1853	51	49
1857	140	32

In 1858 the contest between the two Houses,

which had been carried on for a period of twenty-five years, came to a close. The Lords, after a vain attempt to mar the bill, gave way, and the Jews at last were admitted to the full privileges of citizenship from which they had been debarred for a quarter of a century by the veto of the hereditary Chamber. In dealing with Dissenters, at every stage of their existence, from the cradle to the grave, the Lords have uniformly endeavoured to brand them with some sign of inferiority. They inflicted a stigma upon their marriages by the Dissenters' Marriage Act of 1836, which only permitted marriage outside the Establishment to those who swore they had conscientious objections to the service of the Church, and imposed upon all those who dispensed with the services of the clergy the ignominy of having their banns read before the Board of Guardians. These stipulations were soon removed ; but their enactment proved the animus of the peers. The universities were closed to the Nonconformists, and when they were opened their prizes were

withheld. The Lords amended the Poor Law Bill in 1834 so as to deprive Nonconformist ministers of access to the workhouses, and the first conscience clause passed by the Commons was rejected by the peers. Fortunately the Commons insisted, and the Lords reluctantly consented to its restoration. At the courts of justice permission to substitute an affirmation for the oath was resisted session after session, until piecemeal concessions first to one and then another of the sects rendered it possible at last for the courts of justice to receive the evidence of any citizen without insisting upon his being sworn. They attempted by an amendment of the Municipal Bill to reimpose the Test Act in order to exclude Nonconformists from any share in the administration of charitable trusts; and it is not ten years ago since the House of Lords rejected scheme after scheme of the Endowed Schools Commissioners, in order to preserve to the dominant sect a practical monopoly of intermediate education. Even to the grave the Non-

conformist was pursued by the hostility of the peers. The House of Commons condemned the monopoly of the graveyard in 1873 by 280 votes to 217, but as late as 1876 148 noble Lords voted down the 92 who demanded that it should cease. In 1877 they gave way ; but last session, when the bill came before them, they did their best to render it abortive. They restricted its operation to parishes where no cemeteries exist ; they excluded from its provisions the consecrated section of cemeteries ; and otherwise sought to cripple the bill. The Commons made short work with these amendments, and restored the bill to something like its original shape. But although the Lords did not succeed in defacing the measure, their amendments remain on record to prove how unwillingly they surrendered to the nation the national graveyards which had been monopolized by a sect.

VI.

MUNICIPAL AND EDUCATIONAL REFORM.

THE House of Lords has contributed but little to the constructive legislation of the last half-century. Its function has been negative, obstructive, and destructive. It has rejected measures of constructive statesmanship, retarded for the lifetime of a generation the removal of ancient abuses, and by the short-sighted Conservatism which has led it to reject reforms it has contributed to the destruction of institutions it sought to preserve. But with the exception of the three-cornered constituency, it has hardly created anything since the Reform Act of 1832 but the alderman. The alderman may indeed be regarded as almost the solitary monument of

the legislative genius of the Upper House, and his existence recalls what was perhaps the most serious collision between the peers and the nation which has taken place since 1832. The Municipal Reform Act of 1836 is justly regarded as one of the greatest of the reforms which owe their origin to the energy of the first Reform Parliament. But this great measure, which created anew the whole machinery of municipal government, narrowly escaped defeat through a collision between the two Houses. If the bill had perished, the popular movement against the House of Lords would have assumed serious proportions ; but the crisis was staved off by a series of mutual compromises, of which the alderman remains as the most conspicuous memorial. The Municipal Reform Bill, as it was sent down by the Lords to the Commons, was an entirely different measure from that which the Commons had sent up to the Lords. Not daring to reject outright a measure of reform which was not less obviously required by

the necessities of the times than it was urgently demanded by the popular voice, the peers allowed the bill to pass its second reading, and then eviscerated it in Committee. The alterations which they effected afford a striking illustration of the extent to which their lordships, while appearing to improve a measure, can transform it so utterly as to make it unrecognizable by its authors. The Commons proposed to establish the municipal government of our boroughs on the broadest popular foundation. The householders were to elect the councillors by whom the whole government of the town, even to the nomination of its justices, was to be exercised. All the old system was swept away at a stroke, and the new corporations were left untrammelled to carry out the wishes of their constituents. Such was the bill as it entered the House of Lords; such was not the bill when it was sent back to the Commons. Unable to save the corrupt old system *en masse* from extinction, they endeavoured to snatch as

many brands from the burning as they could. All the freemen were restored to the burgess roll. All the old town clerks were made irremovable. All the existing aldermen were secured the possession of seats in the new town councils for life. All the justices who sat on the bench in their corporate capacity were secured fixity of tenure. New aldermen were to be elected for life by the town councillors, to form a kind of municipal life peerage in the heart of each corporation. The right to nominate justices was taken away from the councils. A high property qualification was insisted on for councillors, and Nonconformist councillors were excluded from any share in the exercise of corporation Church patronage. The appearance of the bill as it emerged from the Upper House created a storm of indignation throughout the country. Ministers were implored to reject it outright, by refusing even to consider the Lords' amendments. This course was strongly pressed upon the Government by Mr. Roebuck; Mr.

O'Connell was equally defiant of the Lords, but he thought the best method was to make what concessions they could, and then dare the peers to throw out the bill. His advice was taken. The Ministers refused to assent to the perpetuation of the town clerks and aldermen of the old system; they refused to re-enact the Test Act in relation to Church patronage: but they assented, with modifications, to the property qualification which lasted down to the last Parliament, to the continuance of the freemen, to the loss of the right to nominate justices, and to the institution of aldermen for a term of years. Thus the alderman was saved from extinction by the House of Lords, which renewed the lease of his existence and enabled him to secure to this day in Liverpool and elsewhere a Conservative majority in councils where but for his presence power would have passed into the hands of the Liberals. There was some very plain speaking in the Commons in those days upon the conduct of the Lords. Sir William

Molesworth declared that the Commons had gone too far in the path of compromise and concession. "Of what use was the House of Lords? Their conduct afforded the nation an easy and simple reply to that question. Their conduct was politically evil. On that subject every second person with whom he conversed held opinions not very dissimilar from his own. Let them pursue their course a little further and the period would quickly arrive (which he for one would be glad to see) when an end would be put to the privileges of an hereditary aristocracy—of that body which in his solemn belief could never be reformed save by being dissolved." The reason for this irritation was stated by O'Connell, in a passage which is worth quoting if only to illustrate the extent to which the House of Lords operated as a check on public business :—

"See what an immense quantity of most useful measures had been stopped in the other House during the present session! Take England.

What had become of the Executors and Administrators Bill—a bill of the utmost importance, doing away with some of the grossest absurdities of the law? It was cushioned. What had become of the Execution of Wills Bill? Cushioned. What of the Prisoners' Counsel Bill? Cushioned. What of the Imprisonment for Debt Bill? Thrown out. Turn next to Ireland. What had become of the Irish Church Reform Bill—the first honest experiment to conciliate the people of Ireland by the Government of England? It was treated with indignity, wholesale indignity. Twenty-five clauses annihilated at one breath; they were struck out by the gross, and wholesale contumely as well as injustice was cast upon Ireland. What had become of the Irish Marriage Bill? It was thrown out; and what was the result? Why that in every instance where illegal marriages had been effected the innocent child alone was left to be punished. What had become of the Irish Constabulary Bill? Thrown out on the most

frivolous reason ever heard of. What had become of the Dublin Police Bill and the Irish Registry of Voters Bill? It was not yet destroyed; but he need not boast much of the spirit of prophecy to foretell what would become of that bill. In short, as regarded England, the other House had evinced a determination to stop everything that was useful; and as to Ireland, they treated everything of conciliation or of justice with contumely and contempt."

The Dublin Police Bill and the Irish Registration Bill shared the fate which O'Connell predicted. The great Agitator spent the recess in haranguing vast assemblies in the North of England and in Scotland on the evils of the House of Lords. Thirty-seven years later the peers threw out a bill introduced by Mr. Gladstone's first Administration for devising a method of terminating the deadlock that had arisen over the question of the altering the boundaries of wards. Lord Salisbury detected in the proposal some political plot, and the

Lords threw the bill out by 77 votes to 56.

Between 1835 and 1872 the Lords enjoyed many opportunities of expressing their jealousy of the democratic system of municipal government. In 1836 they refused to sanction the Poole Corporation Re-election Bill, which provided for the re-election of the Poole Corporation on account of the gross fraud which characterized the first election in that borough; "cushioned" (to use O'Connell's phrase) the Municipal Corporations Act Amendment Bill, which provided a remedy against the maladministration of charitable trusts; and rejected by 43 votes to 27 the proposal to permit affirmations in lieu of oaths to corporation officials. So awkward were they about the matter, that when the Commons, to meet their views, detached all the clauses to which the Lords had objected from the Municipal Bill, and sent up a new measure consisting only of matter which had already received their lordships' consent, it

was incontinently rejected. Two years later a bill giving borough justices the same control over borough gaols as that possessed by county justices over county gaols, permitting the appointment of a chaplain other than a clergyman of the Church of England, and increasing the power of the Secretary of State, was rejected by 33 votes to 32. Nearly forty years later a Conservative Ministry carried a Prisons Act far more centralizing than that which the peers rejected in 1838.

In dealing with the question of Poor Law relief the peers do not appear to so great a disadvantage as compared with the House of Commons. In the great Poor Law Act of 1834 most of their amendments were agreed to by the Commons, Lord Althorp somewhat significantly expressing his gratitude that their alterations had not made the bill much worse. They occasionally have thrown out bills providing for the more effective management of charitable trusts, but their action seems chiefly to have

been prompted by an excessive jealousy of Nonconformity and an equally excessive anxiety for the protection of vested interests. For instance, Lord Lyndhurst complacently justified the rejection of the Charitable Trustees Bill of 1836 because it would have admitted Dissenters, if members of town councils, to a share in the management of funds hitherto exclusively in the hands of Churchmen. In 1835 they rejected a proposal to appoint Charity Commissioners to inquire into the public charities of England and Wales. Sometimes they interfered, as in 1836, to perpetuate the exemption of privileged corporations from liability to poor rate; and sometimes they interposed a peremptory veto upon a necessary measure for the reform of local taxation, as in 1873, when they rejected the Rating Act. Once in 1870 they went so far as to throw out a bill, the loss of which, if it had not been promptly remedied, would have rendered it impossible to levy a rate for the poor in any parish in the kingdom; but this was excep-

tional. As a rule in these matters the peers have not persisted in their opposition to measures demanded by the Commons, and after once or twice registering their objection to a proposed change have reversed their decisions and passed the bill into law.

The journals of the House of Lords do not show that their lordships contributed much to the furtherance of National Education. The first attempt to enlist the State in the work of education brought the peers into the field as its determined opponents. A grant of 30,000*l.* was voted by the Commons by a narrow majority of two. It was condemned by the Lords by 229 votes to 118. This was the most decisive condemnation they ever pronounced of a system of national education. They did not persist in their opposition, and when the Education Bill of 1870 was before them they contented themselves with striking out the clause permitting school boards in certain cases to establish free schools, and with expunging the provisions which the

Commons had sat up till five o'clock in the morning to insert, for the election of school boards by the ballot. Their opposition to the reform of endowed schools was more serious. Under Lord Salisbury's leadership they rejected many of the best schemes of the Commissioners for the reform of our great educational foundations for middle-class education, and by cutting down the duration of the Commission from three years to one, in 1873, cleared the way for its extinction in the early days of Lord Beaconsfield's Administration.

VII.

LEGAL, SOCIAL, INDUSTRIAL.

THE House of Lords has always contained among its members some of the most eminent lawyers of the country. Nevertheless, or perhaps as some would say on that account, it has retarded the progress of legal reform from 1833, when it rejected the Scotch Small Debts Bill, down to the other day, when it struck out the most important clause of the Scotch Summary Procedure Bill. It resisted the abolition of capital punishment for minor offences, and was reluctantly driven by slow degrees to assent to the limitation of the death penalty to cases of wilful murder. Session after session it resisted the demands of the Commons for the abolition of imprisonment for debt. The bill was rejected

one year, referred to a Select Committee another, and abandoned for want of time in a third. It was not without much reluctance and much wrangling with the Commons that they consented to remove that disgrace of our criminal law, which forbade a prisoner the benefit of counsel, and denied him copies of the depositions on which he had been committed. For years—the late Mr. F. Bowen-Graves, in his admirable papers in the *Fortnightly Review* on "Forty Years of the House of Lords," which suggested the present retrospect, says for thirteen years—they prolonged the needless expenses and delays which stood between the poor and the cheap and speedy justice of the county court. They obstructed the reform of the Augean stables of the Court of Chancery. They repeatedly rejected measures simplifying the procedure of the common law courts in England and Court of Session in Scotland. They threw out the bill extending the jurisdiction of the Court of Admiralty in 1839—an act which Lord Melbourne,

who was not usually given to invective, declared was "one of the most disreputable and unprovoked acts of power that ever I knew to be exercised." They steadily opposed the successive concessions which were made to the conscientious objections of Nonconformists and Freethinkers to the form of the oath. There is no need to labour this point. Not even their most devoted panegyrists would venture to claim for the House which in 1875 succeeded in compelling the late Government to abandon the attempt to complete the Judicature Act of 1873 any merit as an advocate of legal or judicial reform.

The chief success of the House of Lords has been in the opposition which it has offered to the proposal to legalize marriage with a deceased wife's sister. On that question it still holds its old ground, and maintains the authority of a misinterpreted text in the Pentateuch against all comers. It is naturally a strong upholder of man's rights. In 1838 it rejected, by 11 votes to

9, the Custody of Infants Bill, which sought to remedy the injustice of refusing a mother access to her children when she was separated from her husband through no fault of her own; and in 1870 it remodelled Mr. Russell Gurney's Married Woman's Property Bill, so as to leave the old law of forfeiture on marriage intact, while providing for the removal of some of the more objectionable abuses to which it gave rise.

Scotland has much less to complain of than Ireland in the treatment which it has received from the peers. Now and then a Scotch Conveyancing Bill has been thrown out, or a Scotch Burghs Bill postponed, but North Britain has never been subjected to the systematic and unwavering policy of injustice which has been enforced in the sister isle. The Lords perpetuated a system of prison management north of the Tweed which was admittedly "of the very worst description," but they passed the Scotch Corporation Reform Bill in a single session, and sacrificed patronage without a protest. If

Ireland had been treated by the peers as they have treated Scotland, we should not this year have to lament as the solitary fruits of a wasted session, a Coercion Act and a Land Bill.

Among the miscellaneous measures which afforded the Lords an opportunity of registering their dissent from the wishes of the nation were the proposals for the reform of the Post Office, and the proposed abolition of the paper duties. The latter measure, rejected in 1860, was carried in 1861. The proposal to abolish the Postmaster-Generalship, replacing him by a Post Office Board of Commissioners, was repeatedly sanctioned by the Commons, but as invariably rejected by the Lords. That Mr. Fawcett is Postmaster-General and not First Commissioner of the Post Office is due to the House of Lords —a fact which can hardly have had any influence upon his recent apologies for the action of the hereditary Chamber in 1880. That the House of Lords was opposed to the substitution of competition for favouritism need hardly

be stated. They vetoed the introduction of competition into the scientific corps of the Indian Army in 1858. Their opposition to the Abolition of Purchase in 1871 is too fresh in the public mind to be referred to at length. As a revising Chamber, whose function it is to be unaffected by the gusty passions of the hour, the record of the peers is not good. The foolish scare of Papal aggression carried them off their balance as much as the House of Commons, and the abortive Ecclesiastical Titles Act, which was read a third time in the Commons by 263 to 49, was read a second time in the House of Lords by 265 to 38. After remaining a dead letter on the Statute-book for twenty years the Act was repealed by both Houses with hardly a protest. Another specimen of panic legislation, the famous bill to put down Ritualism, originated in the House of Lords. But it is almost invariably found that the Second Chamber is even more subject to the tempest of sudden panic or semi-delirious passion than the Lower House. When

"society" is at fever heat the Lords, all of whom are in "society," share its temperature. The House of Commons is subject to the same disturbing influence to some extent, but all its members are not in "society," and it is subject to the cooling influences of the country constituencies.

A long and interesting chapter might be written upon the extent to which the Lords have exerted their power to check or curtail the legitimate development of the material resources of the country. Any one who looks over the list of railway bills rejected or mutilated by the peers since the Earl of Darlington rode post to London to secure the defeat of the first public railway bill because the line of the Stockton and Darlington passed near his fox-covers, will be inclined to ask whether the law against organizations in restraint of trade might not have been invoked against their lordships' House. In like manner their objection to the principle of limited liability, and the repugnance which they manifested to much of the commercial legislation of the past

half-century, might be illustrated at some length. Space, however, forbids the statement of the evidence on this point, and we must hurry to a close by passing in rapid review a few of the instances in which the Lords have interfered with the industrial legislation which figures so largely in the parliamentary proceedings of the last half-century.

It might naturally be supposed that the peers who have boasted that they were "the hereditary tribunes of the poor," would, if only from the antipathy between landlords and manufacturers, have sedulously supported the cause of labour against the exactions of capital. Such, however, has not been the case. In 1842 they began their operations by mutilating the Mines Regulation Bill in the interests of the colliery owners. Lord Shaftesbury (then Lord Ashley) declared they had "invalidated the principle of the bill, and rendered it inoperative." The safeguards provided against the excessive toil of young

children and women in mines were weakened, and it was thirty years before the mining population was able fully to secure that protection for life and limb to which the Commons admitted they were entitled as far back as 1842. Eighteen years after this first veto of the peers upon the efficient regulation of mines the House of Lords struck out of Lord Palmerston's Regulation Bill of 1860 the clauses extending to the children of the mine the educational facilities enjoyed by the children of the factory. Twelve years more had to pass before the peers could be induced to pass an adequate measure for the education of the pit-boys. The same grudging spirit was shown last year when the Employers' Liability Bill was under discussion. The Lords limited its operation to two years, and struck out, on the motion of Lord Brabourne, the clause which made employers responsible for the acts of those to whom they delegate their authority. The Commons restored the

clause, but the rejected "Lords' amendment" remains on record as an illustration of the views of the Upper Chamber.

In the legislation of last Parliament, upon which the Conservative Government specially prided itself on account of its benevolence to the working man, much was little else than the repeal of "Lords' amendments" in previous Parliaments. Notably was this the case in the great grievance of the trade unions in connexion with the Criminal Law Amendment Act. The clause in that measure which the workmen most keenly resented—that making picketing a penal offence—was introduced by the Lords. The Commons reluctantly assented, on account of the lateness of the session, to accept the "amendment." Sir Richard (then Mr.) Cross and Lord Cranbrook (then Mr. Gathorne Hardy) argued strongly in favour of the alteration ; but it was sanctioned not so much out of deference to their arguments as because of the hopelessness of securing the consent of the Lords to the bill

without the objectionable provision. The Act passed, and it immediately excited the keenest hostility among the working classes. The conviction of the gas stokers increased their antipathy to the Act, but all attempts to amend it failed owing to the crowded state of the order book. When the new Parliament met, a Royal Commission was appointed to inquire into the whole question ; and in 1875 Sir Richard Cross, with the assent of the Lords, repealed the Criminal Law Amendment Act, loudly congratulating the workmen upon the fact that at last there was a Government in power which would not hesitate to remove the grievances of which they complained. The fact that the Conservative Government had done little more than undo the mischief which the House of Lords with the hearty assent of the Conservatives in the Commons had done in the previous Parliament was studiously kept out of sight, nor was it so much as once alluded to by Conservative candidates who paraded the repeal of the

Criminal Law Amendment Act as one of the beneficent measures which the working classes owed to the Conservative Government.

One of the most useful functions of the House of Lords from a Conservative point of view is that of providing incoming Conservative Ministers with an ample array of measures ready to hand. The rejected bills, or the expunged clauses of the bills of Liberal Administrations, amply furnish forth the programme of their Conservative successors. The legalization of picketing is only one case out of many. Two other measures upon which the late Government specially plumed themselves were little more than the formal undoing of the work of the House of Lords in preceding Parliaments. The Artisans' Dwelling Act was a tardy, and as the result has proved, an unsuccessful attempt to restore efficiency to the bill of Mr. Torrens, which, after being thrice passed by the House of Commons, was in 1868 emasculated by a Select Committee of the House of Lords, until it lost

all vigour and vitality. Seven years later the Conservative Government picked up these eliminated provisions of Mr. Torrens' bill, added a few fresh clauses, and labelled the whole the Artisans' Dwelling Bill. They were accepted without protest by the peers, and the measure took a prominent place in the list of those which proved the philanthropic zeal of a Conservative Government. In the same way the Commons Act of 1876 was not much more than the tardy restoration of the clauses of the Commons Bills of 1866 and 1872, which failed to secure in those years the assent of the House of Lords. In 1866 they practically limited the operation of the bill to the commons around London. In 1872, after mangling the measure out of shape, they threw it out altogether at the bidding of the Duke of Northumberland, who saw in its clauses an invasion of the property rights of the lords of the manor. In 1876 the Lords consented to pass a measure not less drastic, characteristically contenting themselves with excising the clause

providing for allotments for recreation and for gardens.

The chief contribution of the peers to friendly society legislation was the reduction of the maximum amount for which a child's life might be insured from 6*l.* to 3*l.*; but, as it was disagreed with by the Commons, their attempt to lessen the temptation to parents to murder their children ended in a failure. They were more successful in mutilating the Merchant Shipping Bill. In a sitting of half an hour they carried amendments overriding the decisions arrived at by the House of Commons after long and patient debate. They excluded vessels in the coasting trade from the load-line clause, they sanctioned the carrying of deck loads of deals and battens in winter, and they increased the difficulty in the way of the shipowner who sought to recover costs for the wrongful detention of his ship. The first amendment was rejected by the Commons, but the latter were accepted.

Such is a brief and far from complete

retrospect of the action of the House of Lords for the last half-century. It may be said that the House of Lords has been unable to persevere in its opposition to popular reforms excepting in the case of Ireland ; and in the case of Ireland its success has been as signal as it has been pernicious. In England and Scotland it has delayed and marred measures of reform ; in Ireland alone has it rejected them. We have only to cast a glance at the present condition of the three countries to see the results of government by the House of Commons and government by the House of Lords.

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